

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission

Washington, D.C. 20554

In the Matter of) MM Docket No. _____
) RM- _____
Amendment of Section 73.202(b))
(Table of Allotments))
FM Broadcast Stations)
)
Royston and Commerce, Georgia)

To: Chief, Mass Media Bureau
Policy and Rules Division
Allocations Branch

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RULE MAKING

Southern Broadcasting of Athens, Inc. ("Southern"), licensee of WPUP(FM), Royston, Georgia, by its attorneys, and pursuant to Section 1.420(i) of the Commission's Rules, hereby respectfully requests the Commission to amend Section 73.202(b) of the Rules to (a) delete Channel 279C3 from Royston, Georgia; (b) add Channel 279C3 to Commerce, Georgia; and (c) modify the license for WPUP to specify "Commerce, Georgia" as the Station's community of license. In support whereof, the following is shown:

Background

1. WPUP operates on Channel 279C3 at Royston, Georgia.¹ Southern requests the Commission to delete Channel 279C3 from Royston and to reallocate it to Commerce, Georgia, with a concurrent modification of the license of WPUP to operate on Channel

¹The allocation coordinates for this proposal are the same as the WPUP transmitter site: North Latitude 34° 14' 13", West Longitude 83° 16' 03".

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279C3 at Commerce. This change is permissible under Section 1.420(i) of the Rules, which authorizes the Commission to modify the license or permit of an FM station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's present allotment.

2. Two factors must be demonstrated in order to change a station's city of license in a rule making proceeding: (1) the channel changes must be mutually exclusive, and (2) the rule making must not deprive a community of an existing service representing its only local transmission service. The Commission stated that in making the determination of whether to amend the Table of Assignments it would "take into account the totality of the service improvements resulting from a proposed change in community of license in determining whether an allotment proposal should be approved." See, Modification of FM and TV Authorizations (New Community of License), 4 FCC Rcd 4870 [66 RR 2d 877] (1989). Southern's proposal is consistent with the rules and Commission policies, i.e., the channel changes are mutually exclusive, and the rule making will not deprive Royston of its only local transmission service.

Expression of Continuing Interest

3. If the Commission allots Channel 279C3 to Commerce, Southern will promptly file an application for minor change construction permit or new license, as directed by the Commission to operate WPUP at Commerce, and upon grant, will promptly make whatever changes are necessary to implement this change.

4. Attached is a Technical Exhibit, which is incorporated herein by reference,

that provides the Commission with technical information about the proposed Royston/Commerce channel exchange.

Royston, Georgia

The Attachment, Exhibit 2, shows that Royston, Georgia, had a 1990 population of 2,758. Royston has two commercial broadcast stations, WBIC(AM) and WPUP(FM). Reallotment of Channel 279C3 to Commerce will not deprive Royston of its only local transmission service since WBIC(AM) will continue to provide service to that community.

Commerce, Georgia

5. Commerce is an incorporated community in Jackson County, Georgia. The U.S. Census indicates it had a 1990 population of 4,108 persons (See Attachment, Exhibit 2) Commerce is served by daytime only station WJJC, and WPUP would bring Commerce its first local fulltime FM station.

Public Interest Considerations

6. Attachment 1, Exhibit 1 shows that Commerce receives city grade service from WPUP.

7. Since no site relocation is required, there will be no loss of service to any area and service to Royston will not be reduced under this proposal. Because Royston will continue to receive local service from WBIC(AM), Southern's proposal will not deprive Royston of its only local transmission service.

8. The Commission's priorities for assigning FM allotments are set out in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 [51 RR 2d

807] (1982). They are: (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). Here, the reallocation of Channel 279C3 from Royston to Commerce is preferred because Commerce is substantially larger than Royston, with 1,350 more persons. Thus, there would be a preferential arrangement of allocations resulting from the allocation of Channel 279C3 to Commerce.

WHEREFORE, Southern respectfully requests the Commission to amend Section 73.202(b) of the Commission's Rules, as follows:

South Carolina

	<u>Present</u>	<u>Proposed</u>
Royston	279C3	---- ²
Commerce	----	279C3

Conclusion

Southern requests the Commission to (a) delete Channel 279C3 from Royston, Georgia, (b) allocate Channel 279C3 to Commerce, Georgia, and (c) modify the license of WPUP to operate on FM Channel 279C3 at Commerce, Georgia. As stated supra, if the FCC modifies the license of WPUP to operate on Channel 279C3 at Commerce, Southern will timely file an application for minor change construction permit or new

² Royston would continue to receive service from WBIC(AM).

license as directed by the Commission to operate WPUP at Commerce, and upon grant thereof, Southern will make whatever changes are necessary to implement this change.

Respectfully submitted,

**SOUTHERN BROADCASTING
OF ATHENS, INC.**

A handwritten signature in black ink, appearing to read 'Gary S. Smithwick', written over a horizontal line.

By:

Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.

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October 3, 1997

ATTACHMENT

Southern Broadcasting of Athens, Inc.
WPUP (FM)
Royston, Ga. to Commerce, Ga.
September 1997

The following technical exhibit and statement has been prepared of behalf of Southern Broadcasting of Athens, Inc. The purpose is to show the Commissions staff that WPUP (FM) does meet all criteria as set forth in the Federal Communications Commissions rules, related to city of license, in this proposed change to Commerce, Ga.

Exhibit-1 is a visual plot of the 70 dBu (3.16 Mv/M) contour. This exhibit clearly shows that Commerce, Ga. Will be totally encompassed by said contour.

Exhibit-2 is a population comparison of these two cities. This exhibit clearly shows that the public interest would be better served by this proposed change in city of license from Royston to Commerce. An increase of 1,350 in city population and 13,335 in county population would be realized by granting the proposed change.

Exhibit-3 is the list of facilities that presently serve Royston, and Commerce, Georgia before and after the proposed chance.

No change in transmitter site is presented with this proposal, therefore, there is no loss or gain in persons served as a result.

The attached technical exhibits clearly show that the public interest would be better served in granting this proposal to change city of license for FM radio station WPUP from Royston to Commerce, Georgia.



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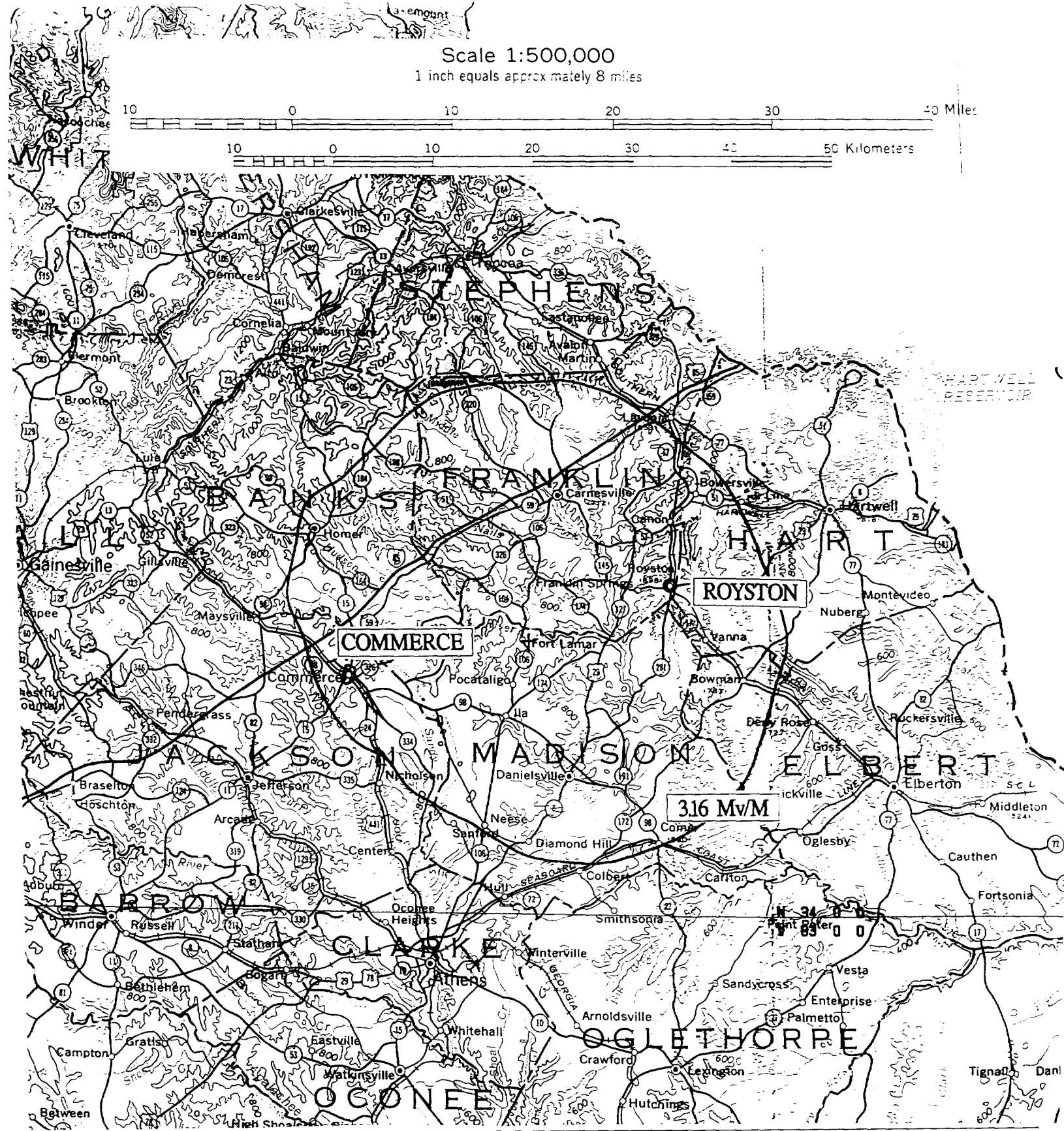



EXHIBIT-1

Southern Broadcasting
of Athens, Inc.

EME  PROFESSIONAL ENGINEERING SERVICES
FOR THE PROFESSIONAL BROADCASTER
COMMUNICATIONS

293 JC SAUNDERS ROAD
MOULTRIE, GEORGIA 31768
(912)890-2506 (912)985-0864 Fax

Southern Broadcasting of Athens, Inc.
WPUP (FM)
Royston, Ga. to Commerce, Ga.
September 1997

1990 Census Data

Commerce

City - 4,108

Royston

City - 2,758

Net gain by proposed move

1,350

Jackson County

County - 30,005

Franklin County


County - 16,650

Net gain by proposed move

13,335

EXHIBIT-2

Southern Broadcasting
of Athens, Inc.

EME  PROFESSIONAL ENGINEERING SERVICES
FOR THE PROFESSIONAL BROADCASTER
COMMUNICATIONS
293 JC SAUNDERS ROAD
MOULTRIE, GEORGIA. 31768
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Southern Broadcasting of Athens, Inc.
WPUP (FM)
Royston, Ga. to Commerce, Ga.
September 1997

FACILITIES
BEFORE AND AFTER
PROPOSED CHANGE

Commerce

Royston

Before

WJJC (AM) - 1270 Khz - 5000 W

WBIC (AM) - 810 Khz - 230 W
WPUP (FM) - Ch-279 C3

After

WJJC (AM) - 1270 Khz - 5000 W
WPUP (FM) - Ch-279 C3

WBIC (AM) - 810 Khz - 230 W

EXHIBIT-3

Southern Broadcasting
of Athens, Inc.

EME  PROFESSIONAL ENGINEERING SERVICE
FOR THE PROFESSIONAL BROADCASTER
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293 JC SAUNDERS ROAD
MOULTREE, GEORGIA. 31768
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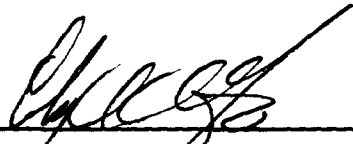
AFFIDAVIT AND QUALIFICATIONS OF PREPARER

State Of Georgia)
City of Moultrie) §
Colquitt County)

Clyde Scott, Jr. First being duly sworn, Deposes and says he is a Broadcast Engineer, Technical Consultant, and President of EME Communications. He has been engaged to prepare the attached technical exhibit and related statements.

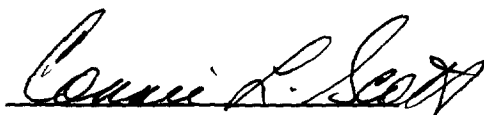
That his qualifications are a matter of record before the Federal Communications Commission and has been active in the Broadcast industry since 1965 and in Broadcast Engineering since 1972. That he is the holder of General Radiotelephone License No. PG-6-30133.

That the attached Technical exhibit was either prepared by him or under his direct supervision. All material, exhibits, and statements hereto are believed to be true and correct.



Clyde Scott, Jr.
Affiant

Subscribed and sworn to before me this day,
September 19, 1997



Connie L. Scott

Notary Public, Colquitt County, Georgia
My Commission Expires Oct. 12, 1999